



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

WINSTEAD SECHREST & MINICH, P.C.  
P.O. BOX 50784  
DALLAS, TX 75201

COPY MAILED

AUG 25 2004

OFFICE OF PETITIONS

In re Application of :  
Richard E. Smalley, et al. :  
Application No. 10/032,726 :  
Filed: December 28, 2001 :  
Attorney Docket No. 11321-P012USD11

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Applicant is reminded that, in view of applicant's loss of entitlement to small entity status, the issue fee payment filed in response to the Notice of Allowance and Issue Fee Due mailed July 9, 2004 must be paid as a large entity.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Publishing Division to await a response to the Notice of Allowance mailed July 9, 2004.

*Sherry D. Brinkley*  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy